

## REMARKS

Applicant respectfully requests reconsideration of this application as amended.

### Office Action Rejections Summary

Claims 3-4, 5, 7-9, 14-16, 18, 19, 24, 28, 29, 31-33, 37, 40, 41, 42, 44-46 and 50 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,222,820 of Hamami ("*Hamami*") in view of U.S. Patent No. 6,424,629 of Rubino et al. ("*Rubino*").

Claims 2, 26, and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Hamami* in view of *Rubino* and in further view of "ATM/IP in the 21<sup>st</sup> Century" by Phillips ("*Phillips*").

Claims 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Hamami* in view of *Rubino* in further view of "Monitoring and Control of ATM Networks Using Special Cells" to Chen et al. ("*Chen*").

### Status of Claims

Claims 2-13, 15-24, 26-37 and 39-54 remain pending in the application. Claims 4, 15, 28, and 41 have been amended to more properly define preexisting claim limitations. The amended claims are supported by the specification. Claims 51-54 have been added. No new matter has been added.

### Claim Rejections

Claims 3-4, 5, 7-9, 14-16, 18, 19, 24, 28, 29, 31-33, 37, 40, 41, 42, 44-46, and 50 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Hamami* in view of *Rubino*. Applicant submits that claim 4 is patentable over the cited references.

The Office Action, mailed Dec. 30, 2003, asserted that one of ordinary skill in the art would be motivated to modify *Hamami* with the teachings of *Rubino* because “both references disclose network communications in general, and more specifically ATM. Even more specifically, both references disclose detecting calls in general and more specifically OAM cells. Thus there is a strong motivation to combine the teachings as a whole for both references.” *See* Office Action, mailed 12/30/03, page 3. In response to this assertion, the applicant argued that “broad generalizations such as both references disclose network communications or ATM or OAM cells cannot be used in rejection of applications to provide a motivation to modify references by one of ordinary skill in the art under 35 U.S.C. §103(a).” *See* Amendment and Response to Office Action, dated 4/15/04, page 14. The applicant further requested that the Examiner “provide ‘a specific understanding or principle within the knowledge of the skilled artisan’ that would have provided the motivation to combine the references in the purported manner.” *See id.* citing MPEP 2143.01; *In re Kotzab*, 217 F.3d 1365 (Fed. Cir. 2000). It appears that the Office Action has not provided a response to the Applicant’s argument. Thus, if the Examiner maintains the position that one of ordinary skill in the art would be motivated to combine the cited references, the applicant respectfully requests that the Examiner rebut the applicant’s argument above by providing a “specific understanding or principle within the knowledge of the skilled artisan” to overcome the applicant’s argument.

Moreover, as has been previously presented, applicant maintains that one of ordinary skill in the art would not be motivated to combine references as disused in applicant’s previous response and not addressed by the current Office Action. Specifically, *Hamami* notes that although some data may be lost until a switchover to the redundant connection is complete, this should not pose a major problem as the upper layers in the protocol stack at the end station are able to compensate for the data loss. *See Hamami*, col. 3, lines 46-57. As such, one of ordinary skill in the art facing the problems

confronted by the inventors of *Hamami* would not be motivated to look to the teachings of *Rubino* because *Hamami* does not consider data loss during a switchover to be a major problem that cannot be compensated for by end station protocol stacks.

Furthermore, even if the cited references could somehow be combined in the manner purported by the Office Action, a combination of the cited references would still lack at least one limitation of claim 4. Claim 4, as amended, recites:

A method comprising:

**transmitting** data to a first router from a gateway module along a first virtual circuit of a plurality of virtual circuits in a network and **a plurality of detecting cells** to the first router from the gateway module along said first virtual circuit and **to a second router from the gateway module along a second virtual circuit** of said plurality of virtual circuits;

detecting a failure on said first virtual circuit using a switch; and  
switching transmission of said data from said first virtual circuit to a second virtual circuit of said plurality of virtual circuits in said network.

(emphasis added)

The Office Action asserts that *Rubino* teaches the limitation of “transmitting a plurality of detecting cells along a first and second virtual circuit.” See Office Action, mailed 05/17/04, page 4 (emphasis in original).

*Rubino* provides a mechanism within a router to trigger a routing table update so that the router is able to reconverge when the status of a logical connection changes. See *Rubino*, col. 3, lines 5-12 and col. 4, lines 36-61. More specifically, *Rubino* teaches a “first protocol layer logic at a first protocol layer of a protocol stack [that] monitors the status of the logical connection, and triggers routing table updates at a second protocol layer of the protocol stack based on the status of the logical connection[,]” and the logical connection [can comprise of] ... one or more virtual channels at a data link layer.” See *Rubino*, col. 3, lines 15-20 and col. 3, lines 30-40. “[E]ach ATM router maintains a separate logical connection to each of a number of other ATM routers, where each logical connection consists of one or more PVCs.” See *id.* at col. 5, lines 17-19 and col. 3, lines

30-40. This shows that the even if the ATM router monitors one or more PVCs using the connectivity verification management function, as purported by the Office Action, the **ATM router only monitors the PVCs associated with the single logical connection** between the ATM switch 106 and the ATM router 108, and not any PVCs connected to a second ATM router. Thus, the combination of the teachings of *Hamami* and *Rubino* the cited references fail to teach “transmitting ... a plurality of detecting cells to the first router from the gateway module along said first virtual circuit and to a second router from the gateway module along a second virtual circuit of said plurality of virtual circuits,” as recited in claim 4. Therefore, applicant respectfully submits that claim 4 is patentable over the cited references.

Given that claims 3, 5, and 7-9 depend from claim 4, applicant submits that claims 3, 5, and 7-9 are also patentable over the cited references.

For reasons similar to those given above with respect to claim 4, applicant submits that claims 14-16, 18, 19, 24, 28, 29, 31-33, 37, 40, 41, 42, 44-46, and 50 are patentable over the cited references.

Claims 2, 26, and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Hamami* in view of *Rubino* and in further view of *Phillips*. Applicant submits that *Phillips* fails to cure the deficiencies noted above with respect to *Hamami* and *Rubino* and, therefore, claims 2, 26, and 39 are patentable over the cited reference.

Claims 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Hamami* in view of *Rubino* in further view of *Chen*. Applicant submits that *Phillips* fails to cure the deficiencies noted above with respect to *Hamami* and *Rubino* and, therefore, claims 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 are patentable over the cited reference.

In conclusion, applicant respectfully submits that in view of the arguments and amendments set forth herein, the applicable rejections have been overcome.


If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: 9/14, 2004

  
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